



# CITY OF BRUNSWICK

1 W. Potomac Street • Brunswick, Maryland 21716 • (301) 834-7500

## **Brunswick Board of Appeals Minutes July 27, 2006**

**Commission Members Present:** Chair Dawn Page, Vice Chair Patty O'Brien, Secretary Wayne Hawes, and Barbara Baker, Alternate.

**Mayor & Council Present:** None.

**Staff Present:** City P & Z Administrator Rick Stup, Development Review Planner Jeff Love, Comprehensive and Utility Planner Jack Whitmore, and City Attorney David Severn.

Chair Hawes called the meeting to order at 7:00 PM.

### **Election of Board Officers**

In accordance with the new Bylaws & Procedures, Mr. Stup conducted an election for the seats of Chair, Vice Chair and Secretary for FY 07.

The following slate of officers were nominated by Mr. Hawes, after he stated that he felt that other members should be able to ascend in the chairs, and seconded by Ms. Page:

Ms. Page, Chair  
Ms. O'Brien, Vice Chair  
Mr. Hawes, Secretary.

After three calls for further nominations, Mr. Stup closed nominations.

There being no further nominations or discussion, the slate was elected by acclamation.

### **Minutes:**

The minutes for the May 25, 2006 meeting were reviewed and approved, (motion by Mr. Hawes and seconded by Ms. O'Brien, passed unanimously).

### **Chairman:**

No announcements.

### **Old Business:**

None.

**New Business:**

**Zoning – Administrative Error**

**Applicant appeal for an Administrative Error of the Zoning Administrator Interpretation of a Lot of Record Definition with regard to the property at 49 East D Street, located on the north side of East D Street, west of Second Avenue (Tax Map 202, Parcel 1190). Zoned OS, BR-BOA-06-02-AE**

Chair swore in those wishing to testify on the case.

**Staff Presentation**

Mr. Stup read the case file into the record. He stated that due to an administrative error, which occurred in an effort to get the case before the Board in July, the case was not properly advertised, and extended Staff's apology to the applicant. Because of the advertising, the Board could continue the application, or take testimony and leave the case open until another meeting that was advertised properly. Staff supported hearing testimony because all of the other required notification had been completed, citizens were present for the hearing, and the Zoning Administrator was on Leave during the August meeting. Since this case was an Administrative Error Appeal, the applicant presents the case; therefore, there is no Data Sheet.

After discussion, the Board agreed to hear testimony.

**Applicant:**

Ms Eanes, applicant, presented the applicant's case. She based her appeal on the original plat recorded WIP 11, page 507; Introduction and Being Clauses of deeds, and certain State Assessment Information. She also explained that her attorney had prepared deeds for two of the four parcels, and the Clerk of the Court accepted them for recordation. She is now receiving individual Tax Bills, which she felt made them individual parcels in zoning.

**Testimony In Support:**

None.

**Testimony In Opposition:**

Michael Tyler, 48 East D Street, spoke generally in opposition to the appeal. He stated that he felt that the proposal if permitted to proceed, would have a negative impact on the immediate neighborhood.

**Additional Relevant Testimony:** None.

Messrs. Stup and Love answered question from the board and addressed Ms. Eanes testimony at the request of the Board.

## **Board of Appeals Minutes**

**July 27, 2006**

**Page 3 of 4**

Mr. Stup entered into the record that he was a Registered Surveyor, and explained the parts of a deed, what was the property description of the parcel, and the basis for the Lot of Record Interpretation. He also explained that, if a deed is in the proper form, the Clerk of the Court is required to record it whether it conforms to zoning or not. Also, that Assessment Records do not take precedence over the deed of record immediately prior to the adoption of the Zoning Ordinance. He further stated that if the Board determines that an Administrative Error didn't occur, then the applicant's actions that resulted in the two new deeds created a subdivision contrary to the Subdivision Regulations, which would need to be corrected.

### **Rebuttal:**

Ms. Eanes disagreed with Staff's position, and felt it didn't make sense. She again stated that, since there was reference in the deed to the original parcels, the parcels still existed. Additionally, she indicated that she felt that it was part of her property rights to be able to have the two lots as Lots of Record.

In response to the Chair's question if there was any additional comment, Michael Tyler spoke in response to Ms. Eanes rebuttal remarks. He stated that the scenario that she presented to be permitted to have the lots could be a common occurrence all over the City. In his opinion, it would ruin the character of the City.

Mr. Severn asked Ms. Eanes several questions to clarify some of the points in her testimony.

### **Decision**

Ms. O'Brien made a motion to continue the matter until the September Meeting (September 28<sup>th</sup>) because of the advertising problem; Mr. Hawes seconded the motion.

**VOTE: Yea 3 Nay 0**

It was stated by Mr. Severn that the case would remain open for additional evidence and testimony.

### **Board Matters:**

Mr. Stup indicated that there would be a meeting on August 24 for the Brown Case, which was continued from the February 23, 2006 meeting. He also stated that because for the action tonight, the Special Exception Case filed by Ms. Eanes has to be postponed until the September Meeting or until a resolution of the appeal because of the nature of her request.

### **Public Comment:**

None.

**Board of Appeals Minutes**  
**July 27, 2006**  
**Page 4 of 4**

**Adjournment:**

The meeting was adjourned at: 8:05 PM.

Respectfully submitted,

Dawn Page, Chair  
Brunswick Board of Appeals